

Exhibit A

**UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

R. Alexander Acosta,)
Secretary of Labor,)
United States Department of Labor)
(Wage and Hour Division),)

Plaintiff,)

v.)

1:17-cv-00055 (LMB/MSN)

Saldivar & Associates, Inc. d/b/a)
R & R Catering; and)
Robert P. Saldivar, Individually and as)
President and Owner of R & R Catering;)
and **Michelle M. Bloxton,** Individually and)
as Vice President and Owner of)
R & R Catering,)

Defendants.)

**DECLARATION OF BRIANNA YOUNG IN SUPPORT OF
PLAINTIFF'S MOTION FOR DEFAULT JUDGMENT**

I, Brianna Young, being of legal age and pursuant to the provisions of 28 U.S.C. § 1746, hereby declare as follows:

1. I am an investigator with the Arlington Area Office of the Wage and Hour Division, United States Department of Labor.

2. In the course of my duties as an investigator, I was assigned to investigate Saldivar & Associates, Inc. d/b/a R & R Catering ("R & R Catering") to determine whether this employer had violated the Fair Labor Standards Act ("the Act").

3. My investigation revealed the following facts:

a. From September 1, 2014 through August 30, 2016, R & R Catering, an event catering company, was a corporation that operated at 7956 Cameron Brown Court, Unit B,

Springfield, VA 22153. R & R Catering provided event catering services and employed servers, kitchen staff, event staff, and salespersons.

b. As part of their duties, employees of R & R Catering handled linens, paper products, and food.

c. Employees regularly traveled across state lines to perform work in Maryland and Washington, D.C.

d. R & R Catering had annual gross volume sales of \$6,139,510 in 2013 and sales of \$5,885,245 in 2014.

e. Robert P. Saldivar owned 48% of R & R Catering and served as President. Michelle Bloxton owned 52% of R & R Catering and served as Vice President.

f. Both Robert Saldivar and Michelle Bloxton oversaw R & R Catering's daily operations, warehouse operations and catering events. They both made decisions regarding hiring and firing employees.

g. Hourly employees worked on average 48 to 51 hours per work week and on occasion up to 75 hours per workweek. Hourly employees were to be paid on an hourly rate basis, ranging from \$9.00 to \$18.00 per hour.

h. From September 1, 2014 through August 30, 2016, R & R Catering hourly employees were paid less than \$7.25 per hour.

i. During nine weeks, R & R Catering missed payroll completely so that employees received no compensation. This occurred on the following dates:

i. November 4, 2015-November 17, 2015

ii. December 2, 2015-December 15, 2015

iii. December 16, 2015-December 29, 2015

- iv. December 30, 2015-January 13, 2016
- v. June 15, 2016-June 28, 2016
- vi. June 29, 2016-July 12, 2016
- vii. July 13, 2016-July 26, 2016
- viii. July 27, 2016-August 9, 2016
- ix. August 10, 2016-August 23, 2016

j. During my investigation, I interviewed witnesses and reviewed documents, such as timesheets and payroll records, provided by R & R Catering. Using this information, I calculated the amount of back wages owed to hourly employees for failing to pay the federal minimum wage of \$7.25 per hour. I calculated that 28 employees were due \$38,492.76 in back wages for failing to pay the minimum wage.

k. In my investigation, I also found that R & R Catering did not compensate hourly employees for work performed in excess of 40 hours per week at rates not less than one and one-half times their regular rates of pay. Instead, R & R Catering paid hourly employees at their regular rates of pay for all hours worked in excess of 40 in a workweek.

l. In addition, I found that R & R Catering had misclassified at least one salaried employee as exempt from premium overtime compensation requirements under the Act. This salaried employee worked an average of 60 hours per workweek at a rate of \$22.92 per hour.

m. Using interview statements and documents, such as timesheets and payroll records, provided by R & R Catering, I calculated the back wages owed for failing to pay employees one and one-half times their regular rates of pay for hours worked over 40 in a workweek. I calculated that 17 employees were due \$57,977.67 in back wages for failing to pay

the premium overtime rate of one and one-half times the regular rate of pay for hours worked over 40 in a workweek.

n. I calculated the total amount of back wages due each employee based on the failure to pay them the required minimum wage and overtime rates from September 1, 2014 through August 30, 2016. Those amounts are identified in the Schedule A attached to this Declaration, which I prepared.

o. In my investigation, I also found that R & R Catering failed to make, keep, and preserve adequate and accurate records of employees' wages, hours and other conditions of their employment. The records provided to me failed to show, among other things, the hours worked each day and the total hours worked each week by employees from September 1, 2014 through August 30, 2016. Mr. Saldivar and Ms. Bloxton admitted that they did not maintain complete records of daily or weekly hours worked by employees.

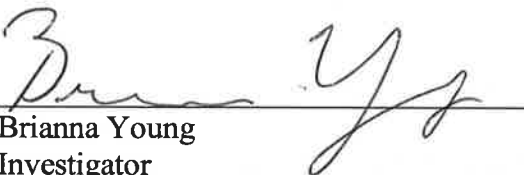
p. During my investigation I learned that the Department of Labor's Wage and Hour Division had previously investigated Mr. Saldivar and Ms. Bloxton at least two times regarding compliance with the Act. Saldivar & Associates, Inc. was investigated for compliance under the Act covering the period of March 9, 2009 to March 7, 2011. The company was found to be in violation of Sections 6 and 7 of the Act for missing payroll, paying straight time for overtime, and misclassifying employees as independent contractors. Saldivar & Associates, Inc. was investigated again for compliance under the Act, this time covering the period of January 18, 2013 to August 2, 2014. The company was found to be in violation of sections 7 and 11 of the Act for failing to pay the proper overtime premium pay amount to employees and for misclassifying employees as exempt.

q. During these previous investigations, Mr. Saldivar and Ms. Bloxton were made aware of their obligations under the Act to pay the appropriate minimum wage, to pay employees time and one-half their regular rate for hours worked over 40 in a workweek, and to keep appropriate records.

r. Ms. Bloxton currently runs the restaurant Blu 1681, which is located at 13188 Marina Way, Woodbridge, VA 22191. I am aware that we have received conflicting information regarding whether Mr. Saldivar owns or runs this restaurant, however, at this time I have not been able to conclude whether Mr. Saldivar actually has a business interest in the restaurant.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 08/04/17


Brianna Young
Investigator
U.S. Department of Labor
Wage and Hour Division

Schedule A

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Baltimore MD District Office 2 Hopkins Plaza Suite 601 Baltimore, MD 21201 410-962-6211	Investigator: Brianna Young	Date: 08/02/2017
	Employer Fed Tax ID Number: 54-1490145	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
Adams, Anthony		07/09/2016 to 07/16/2016	FLSA	\$149.50	\$149.50
				<u>\$149.50</u>	<u>\$149.50</u>
Arevealo, Luis		04/09/2016 to 05/07/2016	FLSA	\$2,426.88	\$2,426.88
				<u>\$2,426.88</u>	<u>\$2,426.88</u>
Atopaucar, Gustavo		07/02/2016 to 07/16/2016	FLSA	\$6,639.00	\$6,639.00
				<u>\$6,639.00</u>	<u>\$6,639.00</u>
Barrenecha, Lourdes		06/11/2016 to 06/25/2016	FLSA	\$166.75	\$166.75
				<u>\$166.75</u>	<u>\$166.75</u>
Campos, Luis		08/20/2016 to 08/27/2016	FLSA	\$990.00	\$990.00
				<u>\$990.00</u>	<u>\$990.00</u>
Campos, Manuel		04/09/2016 to 04/16/2016	FLSA	\$506.00	\$506.00
				<u>\$506.00</u>	<u>\$506.00</u>

I agree to pay the listed employees the amount due shown above by Signed: _____ Date: _____	Employer Name and Address: R & R Catering Saldivar & Associates, Inc. 7956-B Cameron Brown Court Springfield VA 22153	Subtotal: \$10,878.13	\$10,878.13

Form WH-56

Date: 08/02/2017 10:48:17 AM

Case ID: 1799919

Page 1

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Baltimore MD District Office 2 Hopkins Plaza Suite 601 Baltimore, MD 21201 410-962-6211	Investigator: Brianna Young	Date: 08/02/2017
	Employer Fed Tax ID Number: 54-1490145	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
Castro, Rodrigo		03/05/2016 to 07/16/2016	FLSA	\$4,190.50	\$4,190.50
				<u>\$4,190.50</u>	<u>\$4,190.50</u>
Cruz, Jose		08/13/2016 to 09/03/2016	FLSA	\$1,139.57	\$1,139.57
				<u>\$1,139.57</u>	<u>\$1,139.57</u>
Garcia, Heriy		06/25/2016 to 07/09/2016	FLSA	\$5,004.00	\$5,004.00
				<u>\$5,004.00</u>	<u>\$5,004.00</u>
Gilbert, Diana		11/14/2015 to 08/27/2016	FLSA	\$23,330.00	\$23,330.00
				<u>\$23,330.00</u>	<u>\$23,330.00</u>
Jaldin, Norma		06/04/2016 to 07/02/2016	FLSA	\$2,269.83	\$2,269.83
				<u>\$2,269.83</u>	<u>\$2,269.83</u>
Licon, Carmen		05/07/2016 to 07/02/2016	FLSA	\$576.38	\$576.38
				<u>\$576.38</u>	<u>\$576.38</u>

I agree to pay the listed employees the amount due shown above by Signed: _____ Date: _____	Employer Name and Address: R & R Catering Saldivar & Associates, Inc. 7956-B Cameron Brown Court Springfield VA 22153	Subtotal: \$36,510.28	\$36,510.28

Form WH-56

Date: 08/02/2017 10:48:17 AM

Case ID: 1799919

Page 2

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Baltimore MD District Office 2 Hopkins Plaza Suite 601 Baltimore, MD 21201 410-962-6211	Investigator: Brianna Young	Date: 08/02/2017
	Employer Fed Tax ID Number: 54-1490145	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
McCullar, Jordan		06/04/2016 to 08/20/2016	FLSA	\$1,378.00	\$1,378.00
				<u>\$1,378.00</u>	<u>\$1,378.00</u>
Morales, Maritza		06/04/2016 to 07/02/2016	FLSA	\$2,348.78	\$2,348.78
				<u>\$2,348.78</u>	<u>\$2,348.78</u>
Moreno, Manuel Jose		07/02/2016 to 07/16/2016	FLSA	\$232.73	\$232.73
				<u>\$232.73</u>	<u>\$232.73</u>
Moser, Nancy		08/27/2016 to 09/03/2016	FLSA	\$818.49	\$818.49
				<u>\$818.49</u>	<u>\$818.49</u>
Niera, Ada Coca		06/11/2016 to 06/25/2016	FLSA	\$416.88	\$416.88
				<u>\$416.88</u>	<u>\$416.88</u>
Ouhamou, Abdulah		06/18/2016 to 06/25/2016	FLSA	\$89.90	\$89.90
				<u>\$89.90</u>	<u>\$89.90</u>

I agree to pay the listed employees the amount due shown above by Signed: _____ Date: _____	Employer Name and Address: R & R Catering Saldivar & Associates, Inc. 7956-B Cameron Brown Court Springfield VA 22153	Subtotal: \$5,284.78	\$5,284.78

Form WH-56

Date: 08/02/2017 10:48:18 AM

Case ID: 1799919

Page 3

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Baltimore MD District Office 2 Hopkins Plaza Suite 601 Baltimore, MD 21201 410-962-6211	Investigator: Brianna Young	Date: 08/02/2017
	Employer Fed Tax ID Number: 54-1490145	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
Pargas, Cielo Esther		06/04/2016 to 07/23/2016	FLSA	\$3,225.04	\$3,225.04
				<u>\$3,225.04</u>	<u>\$3,225.04</u>
Peralta, Elizabeth		06/11/2016 to 06/25/2016	FLSA	\$1,021.13	\$1,021.13
				<u>\$1,021.13</u>	<u>\$1,021.13</u>
Perdue, Alexandra		06/25/2016 to 08/13/2016	FLSA	\$1,135.50	\$1,135.50
				<u>\$1,135.50</u>	<u>\$1,135.50</u>
Pinto, Brenda		05/21/2016 to 07/02/2016	FLSA	\$1,112.88	\$1,112.88
				<u>\$1,112.88</u>	<u>\$1,112.88</u>
Portell, Natalie		06/18/2016 to 08/27/2016	FLSA	\$23,557.90	\$23,557.90
				<u>\$23,557.90</u>	<u>\$23,557.90</u>
Reyes, Jose		06/25/2016 to 07/16/2016	FLSA	\$2,217.87	\$2,217.87
				<u>\$2,217.87</u>	<u>\$2,217.87</u>

I agree to pay the listed employees the amount due shown above by Signed: _____ Date: _____	Employer Name and Address: R & R Catering Saldivar & Associates, Inc. 7956-B Cameron Brown Court Springfield VA 22153	Subtotal: \$32,270.32	\$32,270.32

Summary of Unpaid Wages

U.S. Department of Labor
Wage and Hour Division

Office Address: Baltimore MD District Office 2 Hopkins Plaza Suite 601 Baltimore, MD 21201 410-962-6211	Investigator: Brianna Young	Date: 08/02/2017
	Employer Fed Tax ID Number: 54-1490145	

1. Name	2. Address	3. Period Covered by Work Week Ending Dates	4. Act(s)	5. BWs Due	Total
Rivera, Dina		02/06/2016 to 07/16/2016	FLSA	\$2,957.38	\$2,957.38
				<hr/> \$2,957.38	<hr/> \$2,957.38
Rojas, Gustavo		04/02/2016 to 04/09/2016	FLSA	\$263.32	\$263.32
				<hr/> \$263.32	<hr/> \$263.32
Valladares, Pablo		09/12/2015 to 11/28/2015	FLSA	\$7,755.00	\$7,755.00
				<hr/> \$7,755.00	<hr/> \$7,755.00
Warren, Cornell		06/25/2016 to 07/16/2016	FLSA	\$551.22	\$551.22
				<hr/> \$551.22	<hr/> \$551.22

I agree to pay the listed employees the amount due shown above by Signed: _____ Date: _____	Employer Name and Address: R & R Catering Saldivar & Associates, Inc. 7956-B Cameron Brown Court Springfield VA 22153	Subtotal: \$11,526.92	Total: \$11,526.92
		Total: \$96,470.43	Total: \$96,470.43